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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-------------------------------------|-----------------------------|
| 10/567,275 | 05/09/2007 | M. Ian Phillips | USE.199TCXZ1 | 9704 |
| 23557 | 7590 | 07/15/2010 | | |
| SALIWANCHIK LLOYD & SALIWANCHIK A PROFESSIONAL ASSOCIATION PO Box 142950 GAINESVILLE, FL 32614 | | | EXAMINER SAJJADI, FEREDOUN GHOTB | |
| | | | ART UNIT 1633 | PAPER NUMBER |
| | | | NOTIFICATION DATE 07/15/2010 | DELIVERY MODE ELECTRONIC |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

euspto@slspatents.com



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| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|
| 10567275 | 5/9/2007 | PHILLIPS ET AL. | USF.199TCXZ1 |

EXAMINER

FEREYDOUN G. SAJJADI

| ART UNIT | PAPER |
|----------|----------|
| 1633 | 20100712 |

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

OFFICE COMMUNICATION

Response to the communication dated April 2, 2010.

The notice of non-compliant amendment dated March 26, 2010 indicated that claim 27 (previously withdrawn) was presented with incorrect status identifier, and amended from a product to a method, to incorporate the subject matter of non-elected Group IV and to force the examination of non-elected subject matter, previously unexamined. Thus, constituting a shift from the elected invention. The notice did not indicate a lack of signature as the grounds of non-compliance. Applicants' argument that claim 27 was amended and therefore was presented with the correct status identifier of Currently Amended is not found persuasive.

The correct status identifier should be (Withdrawn-currently amended). The entry of the claim as amended would further cloud the prosecution history in the case. The claim remains withdrawn until such time that it becomes subject to rejoinder by the examiner. Applicants' argument that they have simply amended claim 27 into a method that does not incorporate the subject matter of non-elected Group IV is not found persuasive, because the claim requires a second polynucleotide comprising at least two copies of a GAL4 upstream activation sequence (i.e. subject matter previously withdrawn without traverse; see also Group V, p. 3 of the restriction requirement dated February 9, 2009). The office generally does not permit a shift to claiming another invention mid-prosecution (MPEP §819).

Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fereydoun G. Sajjadi whose telephone number is (571) 272-3311. The examiner can normally be reached between 6:30 AM-3:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Weitach can be reached on (571) 272-0739. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

